

CJ-19-4709  
Stallings



IN THE DISTRICT COURT FOR THE OKLAHOMA COUNTY

STATE OF OKLAHOMA

FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

JEFFERY LARRY WALKER,

AUG 23 2019

Plaintiff,

RICK WARREN  
COURT CLERK

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v.

Case No.

CITY OF OKLAHOMA CITY, a Municipal  
Corporation, SERGEANT BURWELL, in his  
individual capacity as a police officer for  
the City of Oklahoma City, and BOARD OF COUNTY  
COMMISSIONERS OF MCCLAIN COUNTY,

CJ-2019-4709

Defendants.

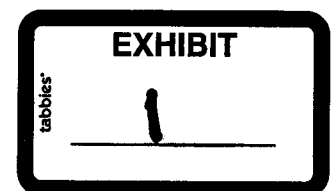
PLAINTIFF'S PETITION

COMES NOW the Plaintiff, and by and through his Attorney of record, E. Ed Bonzie

alleges and states the following:

FIRST CAUSE OF ACTION

1. Plaintiff, Jeffery Larry Walker, is an African-American citizen of the United States of America and at all times relevant hereto resided in the City of Oklahoma City, Oklahoma County, Oklahoma.



2. The defendant City of Oklahoma City is a Municipal Corporation in Oklahoma County located in the Western District of Oklahoma.

3. The Defendant Burwell was at all times pertinent hereto, resident of Oklahoma County, State of Oklahoma and was a duly appointed and acting law enforcement officer of the City of Oklahoma City, Oklahoma.

4. The Board of County Commissioners of McClain County is a governmental entity that is in charge of McClain County Sheriff's Department and District Court.

5. On or about 17<sup>th</sup> day of December, 2018, Plaintiff was a passenger in a car driven by his girlfriend in Oklahoma City, when they were stopped by Defendant Burwell. Although Plaintiff was a passenger Officer Burwell demanded to see his driver's license. Subsequently, Plaintiff was arrested by the Police Department of City of Oklahoma City, allegedly for an outstanding warrant for his arrest for writing a bogus check in McClain County in the year 2003. Plaintiff denied that he was the person because he moved into Oklahoma in 2011 and that it would be impossible for the wanted person to be him. Plaintiff requested Officer Burwell to check the middle name, the social security number

and date of birth of the alleged defendant to make sure he was arresting the wrong person, but Officer Burwell intentionally declined and arrested Plaintiff and took him to the Oklahoma County jail. Plaintiff was subsequently transferred to the McClain County jail where he stayed until four (4) days later when the actual defendant appeared in court and pled guilty to the crime.

6. This arrest and subsequent detention by Officer Burwell, the City of Oklahoma City and McClain County was without just cause and with the intent to violate Plaintiff's civil rights.

7. The actions of the defendants, through the time Plaintiff was arrested and detained for (4) days until the actual defendant appeared in court violated Plaintiff's civil rights.

8. Plaintiff, who was employed at the Grace Living Center in Oklahoma City did not live in Oklahoma in 2003. Plaintiff moved into Oklahoma in November 2011 and could not have written bogus checks in 2003.

9. Plaintiff did not even fit the description of the suspect who was being

targeted by the warrant; i.e., the Plaintiff is an African-American male who was about 55 years old.

10. The alleged suspect was Caucasian and of much younger age than the Plaintiff.

11. The obvious physical differences notwithstanding, the Oklahoma City Police arrested and handcuffed Plaintiff and was taken to the jail where he was traumatized and humiliated as he was searched, fingerprinted, photographed, issued an orange jumpsuit and placed into a cell with several other men for four days.

12. Until the real suspect appeared in court, endured the humiliation of staying in jail the law enforcement officers finally determined that the wrong person was being held in jail and released the Plaintiff.

13. In furtherance of the violation of the civil rights of Plaintiff, the named defendants kept the Plaintiff in jail with the intent to deprive Plaintiff of his rights to due process before the Court.

14. The actions of the Defendants as alleged herein, were done under the color

of law and pretense of the statutes, ordinances, regulations, customs and usages, policies and procedures of the state of Oklahoma and the City of Oklahoma City, Oklahoma, and in violation of the rights of this Plaintiff as guaranteed by the Constitution of the United States of America, more particularly under the provisions of the Fourth Amendment to the constitution of the United States, and under Federal law, particularly the Civil Rights Act, Title 42 of the United States Code, § 1983.

15. The actions of the Defendant Burwell, as alleged herein, was an act to deprive Plaintiff of his rights to due process as protected under 42 U.S.C. § 1982.

16. The conduct of the Defendants, deprived the Plaintiff of the following rights, privileges and immunities secured to him by the Constitution of the United States of America:

- a. The right to be secure in their persons and effects against unreasonable searches and seizures under the Fourth and Fourteenth Amendments to the Constitution of the United States.
- b. The right of the Plaintiff not to be deprived of life, liberty or property

without due process of law, and the right of equal protection of the laws, secured by the Fourteenth amendment to the Constitution of the United States.

- c. The right to be treated equally under the law as white citizens of the United States.
- d. The actions by the defendants were so egregious as to violate the substantive due process rights of the Plaintiff.
- e. For Plaintiff to be treated with such low disregard by the white officers of the City of Oklahoma City, Plaintiff alleges his rights under the Thirteenth Amendment were violated.

17. Plaintiff alleges that because of and as a result of the acts and omissions of the defendants, said actions violating the Constitutional Rights of the Plaintiff, this Plaintiff has suffered damages in a sum in excess of \$75,000.00; in addition, Plaintiff alleges the actions of the individually named defendant acted with deliberate indifference and reckless disregard of the constitutional rights of Plaintiff and therefore Plaintiff is entitled to punitive damages from each of the defendant.

18. Plaintiff alleges that because of and as a result of the acts and omissions of the defendant City of Oklahoma City, in failing to train its officers to protect the constitutional rights of the citizens of the City of Oklahoma City, in allowing its officers to conduct unconstitutional seizure and prosecution of the Plaintiff, to conspire to arrest persons of color within the city limits without just cause, the City of Oklahoma City has been of deliberately indifferent to the unconstitutional actions of its officers, even if its own policies or customs are not unconstitutional; or, the City of Oklahoma City has established a policy practice or custom of allowing its officers to deprive the citizens of Oklahoma City their rights to the protection of the United State Constitution. This policy

practice or custom of the City of Oklahoma City, in allowing its officers to deprive the citizens of Oklahoma City their rights to the protection of the United State Constitution, has harmed the Plaintiff and has suffered damages in excess of \$75,000.00.

**WHEREFORE**, premises considered, Plaintiff prays he be granted judgment against the defendants for their acts in depriving Plaintiff of his Civil Rights as alleged herein, and such other and further relief as the Court deems just and proper, including their costs and reasonable attorney fees.

#### **SECOND CAUSE OF ACTION**

**COMES NOW**, the Plaintiff above-named, and for his second cause of action adopts and incorporates herein each and every allegation set forth in her First Cause of Action, and further shows the Court as follows:

19. The acts of Defendants constituted False Arrest, False Imprisonment, Assault and Battery, Trespass, Malicious Prosecution, and Abuse of Process. Each of these acts of the defendants did not cease until the release of Plaintiff because the actual defendant showed up in court.



21. That on February 1, 2019, and April 30, 2019, Plaintiff filed with the City Clerk of the City of Oklahoma City, Oklahoma, and the Clerk for the Board of County Commissioners of McClain County Tort Claim Notices respectively pursuant to the provisions of the Governmental Tort Claims Act of the State of Oklahoma, 51 O.S. sec. 1951, et seq., claiming damages for his injuries arising from the incident alleged herein. That more than ninety (90) days have passed since the filing of said Claims, and that both the City, and the County have disallowed such Claims.

22. That pursuant to the Governmental Tort Claims Act of the State of Oklahoma, 51 O.S., §151 et seq., The City of Oklahoma City, Oklahoma, and the Board of County Commissioners of McClain County are liable to the Plaintiff for damages suffered by the acts of their employees while acting within the scope of their employment.

23. This Court has jurisdiction of these supplemental state claims pursuant to Title 28 of the United States Code, §1367.

**WHEREFORE**, premises considered, Plaintiff prays he be granted judgment against The City of Oklahoma City, Oklahoma, and the Board of County Commissioners of McClain

County for the wrongful acts of their employees committed while they were acting within the scope of their employment, and such other relief as the Court deems just and proper.

**THIRD CAUSE OF ACTION**

COMES NOW, the Plaintiff, above-named and for his Third Cause of Action adopts and incorporates herein each and every allegation set forth in her First and Second Causes of Action, and further shows to the Court as follows:

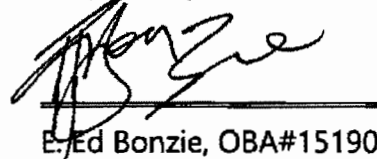
24. The Defendant named in his individual capacity, excluding the corporate entity being City of Oklahoma City, is individually liable for his torts committed outside the scope of his employment.

25. The acts, conduct and behavior of the Defendant, performed outside the scope of his employment were so grossly negligent, performed knowingly, intentionally, and with such a willful disregard of the rights of the Plaintiff as to constitute fraud and oppression, by reason of which the Plaintiff is entitled to punitive damages.

WHEREFORE, premises considered, Plaintiff prays he has judgment against the Defendant and as alleged herein, and for such other and further relief as the Court deems

just and proper, including reasonable attorney fees and costs.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'E. Ed Bonzie', is written over a horizontal line.

E. Ed Bonzie, OBA#15190

8201 S. Walker

Oklahoma City, Oklahoma 73139

405-631-1021(Phone)

405-616-2488(Fax)

Attorney for Plaintiff